THE HON'BLE MS JUSTICE G.ROHINI

Writ Petition No.6055 of 2004

25.01.2006

Between:

Smt.Gandrethi Premavathi w/o Ganesh

... PETITONER

AND

The district Collector, Vizianagaram and others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

Writ Petition No.6055 of 2004

ORDER:

This writ petition is filed questioning the order passed by the third respondent-Revenue Divisional Officer, Vizianagaram, dated 07.11.2002, appointing the fourth respondent herein as the fair price shop dealer of Modavalasa village, Denkada Mandal, Vizianagaram District as confirmed by the respondents 1 and 2.

The facts in brief are hereunder:-

In pursuance of the notification issued for appointment of fair price shop dealer of Modavalasa village, the writ petitioner submitted her application and she attended written test and interview on 25.10.2002. Along with her, the fourth respondent herein also attended written test and interview. The third respondent having considered the relevant merits, appointed the fourth respondent as the fair price shop dealer by order, dated 07.11.2002. In the said order, it was observed that though the fourth respondent obtained less marks than the petitioner herein, since the petitioner was disqualified on the ground that her father-in-law by name Gandreti Appanna, who worked as fair price shop dealer earlier, was removed in connection with the proceedings initiated under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act'), her candidature was rejected. Questioning the said order, the petitioner preferred an appeal before the second respondent-Joint Collector. The second respondent by an order, dated 03.09.2003, dismissed the appeal and upheld the appointment of the fourth respondent. Though the petitioner preferred revision before the first respondent-District

Collector, the same was also dismissed by an order, dated 22.11.2003. Hence, the writ petition.

I have heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents 1 to 3. Despite service of notice, the fourth respondent did not choose to appear.

At the outset, it is to be noted that under G.O.Ms.No.198, dated 05.02.1996, certain guidelines are issued with regard to appointment of fair price shop dealers. As per the said guidelines, it is necessary for the appointment authority to verify the antecedents of the selected candidates. In the case on hand, it is true that the writ petitioner obtained more marks than the fourth respondent. However, on verification of her antecedents, the Revenue Divisional Officer found that her father-in-law by name Gandreti Appanna, who was earlier working as fair price shop dealer of the same village, was found guilty in the proceedings initiated under Section 6-A of the Act and therefore, her candidature was rejected.

The learned counsel for the petitioner vehemently contends that since there are no allegations against the petitioner, the offence, if any, committed by the father-in-law of the petitioner cannot be taken as a ground for rejecting her candidature. The learned counsel points out that as a matter fact, the father-in-law of the petitioner was not the fair price shop dealer. But, he was only assisting one Vimala Kumari who was the fair price shop dealer of Modavalasa village.

The material on record shows that the father-in-law of the petitioner was a benami dealer of the fair shop of Modavalasa village and he was actually present in the shop when the inspection took place. Having found certain irregularities, the stocks available were seized and subsequently, by an order of the Joint Collector, dated 22.01.1997, passed under Section 6-A of the Act, the seized stocks were confiscated. In Crl.A.No.81 of 1999, the learned Additional Sessions Judge, Vizianagaram confirmed the said order of confiscation by judgment, dated 27.09.1999.

Having regard to the facts and circumstances, I am unable to agree with the contention of the learned counsel for the petitioner that the petitioner cannot be disqualified for appointment as fair price shop dealer, may be that there were no allegations against her. But, admittedly, her father-in-law, who was running fair price shop of the very same village, was found guilty in the proceedings initiated under Section 6-A of the Act. Undoubtedly, the said fact is a relevant factor which requires to be considered while considering the candidature of the applicant for appointment of the fair shop dealer. Hence, I am of the opinion that the orders under challenge do not suffer from any legal infirmity warranting interference of this Court under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No costs.

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25.01.2006

VGB